

**IOWA RACING AND GAMING COMMISSION
MINUTES
OCTOBER 5, 2006**

The Iowa Racing & Gaming Commission (IRGC) met on Thursday, October 5, 2006 at the Isle of Capri Bettendorf (IOCB), 1777 Isle Parkway, Bettendorf, Iowa. Commission members present were Kate Cutler, Chair; Gerald Bair, Vice Chair; and members Greg Seyfer and Toni Urban. Commissioner Diane Hamilton was absent.

Chair Cutler called the meeting to order at 8:30 AM, and requested a motion to approve the agenda. Commissioner Bair moved to approve the agenda as submitted. Commissioner Urban seconded the motion, which carried unanimously.

Chair Cutler moved to the next agenda item and recognized Bernie Goldstein, Chairman of the Board and CEO of Isle of Capri, who welcomed the Commission to Bettendorf. Mr. Goldstein stated that Iowa was the sight of the first riverboat casino in the United States, with the first licenses being issued in 1990. The first riverboat to set sail, the Diamond Lady in Bettendorf, sailed at 7:00 AM on April 1, 1991. He stated that an important part of the initial lobbying for the riverboat legislation was the concept of the not-for-profits with a sum of money going to that organization for distribution to local charities, and the riverboats were not allowed any control over those funds. Mr. Goldstein indicated that he felt that was important, but noted that not one state that has allowed riverboat gambling has followed Iowa's lead in that respect.

Decker Ploehn, Bettendorf City Administrator, also welcomed the Commission to Bettendorf. He noted that there will be a ground breaking ceremony at 3:00 PM this afternoon for the Event Center that will connect to the new hotel on the Isle of Capri Bettendorf (IOCB) property.

Chair Cutler moved to the approval of the minutes from the August 31, 2006 Commission meeting. Commissioner Seyfer moved to approve the minutes as submitted. Commissioner Urban seconded the motion, which carried unanimously.

Chair Cutler called on Jack Ketterer, Administrator of IRGC, for announcements. Mr. Ketterer recognized the following IRGC employees from the IOCB and Rhythm City Casino facilities: Betty Clark, Debbie Douglas, Shirley Stokes, Stan McClelland and Dan Martens.

Mr. Ketterer made the following announcements regarding future Commission meetings:

- November Commission Meeting – November 9, 2006 – Stoney Creek Inn, Johnston, Iowa (Submissions due by October 26, 2006)
- December 2006 – No Meeting
- January Commission Meeting – January 11, 2007 – Stoney Creek Inn, Johnston, Iowa (Submissions due by December 27, 2006)
- February 2007 – No Meeting
- March Commission Meeting – March 1, 2007 – Terrible's Lakeside Resort, Osceola, Iowa (Submissions due by February 15, 2007)

Chair Cutler moved to the contract approval portion of the agenda, and called on Ameristar Casino. Jane Bell, Director of Government Relations, presented the following contracts for Commission approval:

- Charles Vrana & Son – Construction Projects
- Hawkins Construction – Master Agreement for Construction
- Kone, Inc. – Elevator Service & Repair
- Global Surveillance – Cameras & Related Equipment
- Data Business Equipment – Cage Equipment & Service Contract
- Leick Landscaping – Landscaping & Snow Removal

Commissioner Urban, noting that the \$3 million contract with Hawkins Construction is with an out-of-state company, asked Ms. Bell how close the bids were. Ms. Bell indicated that they were not close at all as there was a variation of two or three percent on the cumulative totals as well as the general conditions.

Hearing no further comments concerning the contracts, Chair Cutler requested a motion. Commissioner Seyfer moved to approve the contracts as submitted. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 06-99)

Chair Cutler called on IOCB. Mo Hyder, General Manager for IOCB and Rhythm City, requested permission to combine Rhythm City's contract approvals with IOCB's. The Commission agreed. Mr. Hyder presented the following contracts for Commission approval:

- Isle of Capri Bettendorf
 - Green Bridge Company – Purchase of Land (RP)
 - Trinity Medical Center – On-Site Health Care & Rehabilitation Service for Employees
 - Terracon – Engineering Services & Labor Fees
 - Co-Engineering, LLC d/b/a PIICO – Engineering Services & Labor Fees

- Rhythm City Casino
 - Trinity Medical Center – On-Site Health Care & Rehabilitation Services for Employees
 - Terracon – Engineering Services & Labor Fees
 - Co-Engineering, LLC d/b/a PIICO – Engineering Services & Labor Fees
 - Radisson d/b/a John Q Hammons Hotels – Guest Lodging

Mr. Hyder noted that the land being purchased by Green Bridge Company will be donated to the City as part of the collaborative agreement on the Event Center.

Hearing no questions for Mr. Hyder, Chair Cutler requested a motion. Commissioner Urban moved to approve the contracts for IOCB and Rhythm City Casino as submitted. Commissioner Seyfer seconded the motion, which carried unanimously. (See Order No. 06-100)

Commissioner Bair asked the projected completion date on the new hotel. Mr. Hyder stated that the topping off party would be taking place later today and the hotel is expected to open in early May of 2007.

Chair Cutler called on Terrible's Lakeside Resort. Damon Butler, General Manager, presented the following contracts for Commission approval:

- Aristocrat Technologies, Inc. – Purchase Replacement Slot Machines
- Konami Gaming, Inc. – Purchase of Replacement Slot Machines

As there were no comments or questions, Chair Cutler requested a motion. Commissioner Urban moved to approve the contracts as submitted by Terrible's Lakeside Resort. Commissioner Seyfer seconded the motion, which carried unanimously. (See Order No. 06-101)

Chair Cutler called on Harrah's. Mike Rich, Interim General Manager, presented the following contracts for Commission approval:

- Alan's Carpet & Floors – Installation of Carpet on Boat
- E-GADS (Electronic Gizmos & Display Systems) – New Slot Signage
- Ulster Carpet Mills – Purchase Carpet

Hearing no comments or questions, Chair Cutler requested a motion. Commissioner Seyfer moved to approve the contracts as submitted by Harrah's. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 06-102)

Chair Cutler asked Mr. Rich about the proposed acquisition of Harrah's. Mr. Rich stated that the Commission probably knew as much as he did, but that he expected to learn more later in the day.

Chair Cutler called on Wild Rose Emmetsburg (WRE). Tom Timmons, Interim General Manager, presented a contract with WMS Gaming for slot machine replacements.

As there were no comments or questions concerning the contract, Chair Cutler requested a motion. Commissioner Bair moved to approve the contract as submitted by WRE. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 06-103)

Commissioner Bair asked Mr. Timmons how things were progressing at WRE. Mr. Timmons indicated that business has been steady, but noted that winter is coming.

Chair Cutler called on Diamond Jo. Natalie Schramm, General Manager, presented the following contracts for Commission approval:

- AC Coin & Slot Service Company – Slot Leases
- Flight Options – Air Service

Mr. Ketterer asked Ms. Schramm about the announcement concerning the new location. Ms. Schramm stated that Peninsula Gaming had paired up with the Historical Society to work on America's River, Phase 2. Part of the agreement is that the Historical Society will take over the Portside Building and the riverboat, and the Diamond Jo would build a moored barge concept on the current parking lot located on the left-hand side upon entering the Ice Harbor. She indicated that the project will be themed similar to Diamond Jo Worth. Ms. Schramm stated that the project is being presented to Vision Iowa next week. Mr. Ketterer asked Ms. Schramm when the Commission could expect the project to be brought before them for approval. Ms. Schramm indicated it would either be in January or March.

Commissioner Bair asked how much funding was being requested from Vision Iowa. Ms. Schramm indicated they are requesting funds from both Vision Iowa and a CAT grant, for a total of \$9 million, but advised the project is not contingent upon receiving these funds. She advised that the funds will be utilized to construct an IMAX theater and a river research center in the current portside building. Commissioner Bair asked about projected opening dates. Ms. Schramm advised that the Diamond Jo's portion would open in 2008, and a portion of the Historical Society's project would open in 2008, with the balance opening in 2009.

Hearing no further comments or questions for Ms. Schramm, Chair Cutler requested a motion. Commissioner Bair moved to approve the contracts as submitted by Diamond Jo. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 06-104)

Chair Cutler called on Diamond Jo Worth (DJW). Jesus Aviles, General Manager, presented a contract with YWS Architects for architectural services for Commission approval.

Hearing no comments or questions, Chair Cutler requested a motion. Commissioner Seyfer moved to approve the contract as submitted by DJW. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 06-105)

Chair Cutler asked Mr. Aviles how business was going at DJW. Mr. Aviles advised that business was holding up very well. Chair Cutler asked about the construction project. Mr. Aviles advised that construction is ahead of schedule; the foundation is finished and framing has started. He stated the hotel should be ready to open early next month.

Chair Cutler called on Riverside Casino & Golf Resort (RCGR). Joe Massa, General Manager, presented the following contracts for Commission approval:

- GRP & Associates – Waste Disposal
- Eastern Iowa Light & Power – Electrical
- Eastern Iowa Light & Power – Electrical (Customer Generation Agreement)
- Data Business Equipment (DBE) – Kiosks
- Tri State Company – Equipment
- Leibold Irrigation, Inc. – Golf Course Construction
- Big Dog Productions – Entertainment
- Cintas Corporation – Uniforms
- Turfwerks – Golf Course Construction

Chair Cutler asked Mr. Massa for an update on the opening. Mr. Massa advised that the property opened on time, and everything went well. He stated that the patron count and revenues are close to the projections. All of the facility, except for the golf course, is open. Due to heavy fall rains, the golf course is now projected to open in June or July 2007. Mr. Massa stated that the Employee Wellness Center, consisting of approximately 3,000 square feet, will be opening this week. He noted there is a separate center for facility patrons.

Commissioner Bair asked about the status of some land that was optioned by the Kehl family for Earthpark in the event Riverside was selected as the site. Mr. Massa stated that alternatives for the utilization of the property were under discussion at this time.

Hearing no further comments or questions, Chair Cutler requested a motion. Commissioner Seyfer moved to approve the contracts as submitted by RCGR. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 06-106)

Chair Cutler moved to the renewal of the racetrack licenses and granting of race dates and racetrack enclosure gambling licenses, and called on Iowa West Racing Association/Bluffs Run Greyhound Park and Horseshoe Casino (IWRA/BRGP and Horseshoe). Todd Graham, Executive Director of IWRA, requested the Commission's support of the greyhound racetrack license, proposed race dates, and the racetrack enclosure gambling license for Horseshoe. He noted that BRGP has had and continues to

hold an important place in Council Bluff's history. IWRA was granted a license in 1984 to operate a pari-mutuel track, which opened in 1986. Mr. Graham listed the various attractions that have located in the vicinity of the racetrack/casino in recent years. He turned the floor over to Mr. Rich for any detailed questions.

Mr. Rich noted that BRGP was the first facility under the Harrah's Entertainment umbrella to be re-branded as something other than Harrah's. He provided the following information regarding the past year of operations:

- Through the Buy Iowa first policy, BRGP and Horseshoe Casino will spend approximately \$22 million with Iowa vendors for supplies, equipment, and services in 2006.
- Of \$63 million spent on general construction for the Horseshoe property, the amount subcontracted to Iowa vendors over the past year exceeded \$13 million. An average of 76% of the general contractors' workforce was comprised of Iowa residents.
- Over 300 employees were added to staff when Horseshoe Casino opened, increasing the number of employees to 1,172 with 614, or 52%, of those employees being Iowa residents.
- Wages and benefits will be \$28 million. The State of Iowa will receive over \$42 million in gaming taxes. The 2006 purse supplement will pay out almost \$8.7 million to the BRGP kennel and greyhound owners.

Mr. Rich stated that it is also important for Harrah's/BRGP and Horseshoe to support the community where their employees live and work. Volunteerism amongst the employees is exemplary, with over 3,000 volunteers hours given during 2005, and they are on pace to meet or exceed that number for 2006.

Mr. Rich indicated the property celebrated two major milestones in 2006: one being the completion of the expansion of the Horseshoe Casino, which has received rave reviews for its restaurants since opening; and the other is that upon opening the new facility, Horseshoe took the market share lead in Council Bluffs and has maintained that lead.

The other milestone was the five-year purse supplement agreement reached with the Iowa Greyhound Association at the end of 2005, which allows both parties to enjoy a win-win situation while providing stability to the owners and breeders and BRGP/Horseshoe for an unprecedented period of time.

Chair Cutler called for any comments or questions for either Mr. Graham or Mr. Rich. Mr. Ketterer asked Mr. Graham the amount of distributions by IWRA to Pottawattamie County and the surrounding counties in 2005. Mr. Graham advised that approximately \$17.7 million was distributed to approximately 147 different projects. Chair Cutler asked for the total distribution amount since IWRA's inception. Mr. Graham advised that IWRA reached a milestone in the past year; they have distributed \$150 million to approximately 100 communities in southwest Iowa.

Chair Cutler called for a motion regarding the renewal of the licenses. Commissioner Seyfer asked if that would include the additional contracts. Chair Cutler agreed, and called on Mr. Rich regarding the additional contract submissions. Mr. Rich presented the following contracts for Commission approval:

- Concert Security Services – Concert Production Services & Labor
- Doll Distributing – Alcoholic Beverages Distributor
- Golden Boy Pies – Sugar-free Cream Pies
- Loffredo Fresh Produce – Fresh Produce & Seafood Supplier
- The Dallas Marketing Group – Marketing Research
- VitalSigns Unlimited, Inc. – Maintenance of Interior/Exterior Signage

As there were no comments or questions for Mr. Rich, Chair Cutler again requested a motion. Commissioner Seyfer moved to approve the renewal of the racetrack license and granting of race dates and the racetrack enclosure gambling license for IWRA/BRGP and Horseshoe Casino, and the additional contracts as submitted.. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 06-107)

Chair Cutler called on Dubuque Racing Association/Dubuque Greyhound Park & Casino (DRA/DGP&C). Bruce Wentworth, General Manager, and Brian Carpenter, Director of Racing, were present to answer any questions. Mr. Wentworth stated this would be the 23rd racing season at DGP&C, noting that the racetrack opened on June 1, 1985. He stated that over that time period, DRA has shared over \$82 million with the City of Dubuque and gave \$24 million to non-profit groups. Mr. Wentworth noted that DRA recently awarded \$500,000 from a “Future Fund” to a local community health center effort. Immediately following that announcement, another foundation donated \$1.3 million to the project.

Mr. Ketterer asked Mr. Wentworth about the announcement of a new facility for Peninsula Gaming, noting that it was his understanding there was a question concerning the agreement between DJ and DRA. Mr. Wentworth stated that the announcement was made a week ago, and took a majority of Dubuque residents by surprise. He indicated he has been trying to get the DRA Board members together for a meeting. Mr. Wentworth indicated it was early in the process for him to say whether there was an issue. He noted some board members may have definitive ideas, and he feels there needs to be some discussion as to whether the plans fit within the parameters of the agreement between DRA and DJ.

Mr. Ketterer stated that one of the issues for the Commission is that the Code requires that there be an agreement between the racetrack and the riverboat. One of the prerequisites for the Commission being able to issue a table game license to DGP&C was that the riverboat had an opportunity to become a moored barge; and vice versa, if the boat became a moored barge, the track would get table games. Mr. Wentworth stated that there is an agreement in place, noting that it was filed with the Commission at 11:50 PM

on the last day that it could be filed with the Commission. He stated that the agreement is in place; it is just a matter of interpreting what the agreement says at this time.

Mr. Ketterer asked the Commission members if it would be prudent to defer the renewal of the pari-mutuel and racetrack enclosure license until the November meeting, thus giving DRA/DGP&C an opportunity to confirm that there is an agreement in place. Mr. Wentworth stated that it would be DRA's position that an agreement is in place; they just need to review the agreement and have had less than a week to do so.

Commissioner Bair stated that what he was hearing in Mr. Ketterer's statements was that even though an agreement is in place it appears that what the agreement actually says appears to be in question based on the interpretation of some DRA Board members. He indicated that he felt the Commission would be more comfortable with postponing this agenda item for a month; thus giving the DRA/DGP&C and the DJ an opportunity to get together and resolve any issues or agree on an interpretation that would allow the Commission to issue the licenses at the November meeting.

Chair Cutler called for a motion. Commissioner Bair stated that he would like to hear from Mr. Wentworth.

Mr. Wentworth stated that the licenses are very important to the facility and would prefer that the Commission would grant the licenses at this time; allowing the parties to sit down and work out the issues among themselves. It would be DRA's preference that this issue be considered as a side issue to the licenses. Mr. Wentworth stated that he was not sure that he could speak as to the DRA Board's position on this matter at this time.

Commissioner Bair stated that he would feel more comfortable waiting until the November meeting based on Mr. Wentworth's comments. Chair Cutler stated there appears to be whorl of information, and it is unclear to the Commission at this time as to what it could mean going forward. She concurred with Commissioner Bair's comments.

Chair Cutler again requested a motion. Commissioner Urban moved to defer action on the pari-mutuel and racetrack enclosure gambling licenses for DRA/DGP&C until the November meeting. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 06-108)

Mr. Wentworth asked if it was possible to receive approval on the additional contracts submitted. Chair Cutler answered in the affirmative. Mr. Wentworth presented the following contracts for Commission approval:

- The Lamar Company – Outdoor Billboard
- The Lamar Company – Outdoor Billboard
- McCullough Creative Group – Advertising Services
- Union Hoerman Press – Printing & Direct Mail Services
- US Postal Service – Postage for Direct Mail

- Hilton Garden Inn – Hotel Services
- Telegraph Herald – Advertising Services
- Atronic Americas, LLC – Slot Machine Games
- Shuffle Master Gaming – Novelty Games & Shufflers
- Shuffle Master Gaming – Novelty Games & Shufflers

Hearing no comments or questions concerning the contracts, Chair Cutler requested a motion. Commissioner Seyfer moved to approve the additional contracts as submitted by DGP&C. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 06-109)

Chair Cutler called on Prairie Meadows Racetrack & Casino, Inc./Prairie Meadows Racetrack & Casino (PMR&C). Gary Palmer, General Manager, and Derron Heldt, Director of Racing, were present to seek approval of the pari-mutuel and racetrack enclosure gambling licenses and race dates for 2007 and answer any questions.

Mr. Palmer stated that PMR&C opened as a racetrack on March 1, 1989, and became one of the first racinos in the country on April 1, 1995. In 1989, they had approximately 200 employees; and now have 1,515. He noted that the track has experienced good growth, and has given back to the community through charitable contributions, community betterment grants and rent to Polk County in the amount of \$275 million since 1995. PMR&C is close to completing a \$60 million expansion, which includes a conference center, new buffet, restaurant, and new 25,000 square foot addition to the casino. He advised that the casino addition is complete, and the conference center and restaurants will be completed in February 2007. Mr. Palmer stated that the construction project is on schedule and under budget.

Chair Cutler asked about the new parking facility. Mr. Palmer stated that the facility has outgrown its current parking. The five-year plan includes a hotel and parking garage, but currently do not have the funds to build the garage. He noted that the facility will need an additional 400-500 parking spaces when the conference center opens next year. There have been four Saturday nights so far this year when PMR&C has had to close their parking lot as there were no more parking spaces, causing them to turn patrons away. PMR&C sought and received permission from Polk County to add approximately 442 parking spots and 21 semi parking spaces. These will be located directly east of the marquee on Adventureland Drive. The cost will be approximately \$1.2 million, not \$14 million as reported by The Des Moines Register.

Chair Cutler asked if the parking lot would remain when PMR&C eventually constructs the parking garage. Mr. Palmer answered in the affirmative. Chair Cutler asked if the new parking is replacing current parking. Mr. Palmer stated that when PMR&C added on, they lost approximately 500 spaces; this would just replace the lost spaces.

Chair Cutler asked Mr. Palmer where PMR&C was at regarding the purse issue. Mr. Palmer advised that PMR&C paid \$18.1 million in purses this racing season, and

anticipates they will pay \$18.2 million next year. Commissioner Bair asked how that figure was calculated.. Mr. Palmer stated that it is based on PMR&C's adjusted gross revenue – the 11% required by statute – minus the Iowa Events Center deduction contained in their contract with Polk County. Commissioner Bair asked if this issue had been worked out with the horsemen. Mr. Palmer stated that purse levels are now mandated by statute. He noted that purses will increase somewhat as the payment to the Iowa Values Fund will decrease and remain constant for 18 years.

Commissioner Bair asked if PMR&C interprets the 11% as a mandate. Mr. Palmer answered in the affirmative. Commissioner Bair noted that the statute reads “at least”. Mr. Palmer stated that is the position of PMR&C's Board of Directors.

Commissioner Bair asked if everything was in place for the 2007 racing season. Mr. Palmer indicated it was not. Mr. Palmer advised that PMR&C had sent a letter from Ann Long, Vice President of Operations, and Mr. Heldt to all three of the horsemen groups asking them to meet among themselves to work out the purse distribution issue prior to any meeting with PMR&C to determine race days and finish up the contracts for 2007. He indicated the horsemen are working on that issue at this time, but have not responded to PMR&C.

Chair Cutler asked Mr. Ketterer if the Commission needed the agreements prior to approving the licenses and request for race dates. Mr. Ketterer informed Mr. Palmer that he and the Commissioners were interested in hearing what PMR&C would propose. He noted that PMR&C had submitted racing dates in their license renewal application, and asked if there had been any discussion with the horsemen concerning those dates. Mr. Palmer answered in the affirmative, but indicated there is no written agreement at this time. He indicated that PMR&C was very satisfied with this year's racing season which was 81 days for the thoroughbred and mixed meet and 14 days of harness racing. For 2007, PMR&C is proposing 82 days of racing for the thoroughbreds and mixed meet with harness again having 14 days at the end of the season.

Mr. Ketterer advised that the Commission had received input from the horsemen that they would like to have a discussion with PMR&C concerning the race dates, as well as the purses. He indicated that he believes the horsemen groups, based on past history, are dubious of their ability to reach an agreement as to how the purses should be distributed among them. Mr. Ketterer stated that he was curious about PMR&C's plans for their racing program beyond 2007.

Mr. Heldt noted that the racing landscape is constantly changing around the country. He advised that over the last few years, PMR&C has taken it year by year. Mr. Heldt indicated that in discussions with the racing staff, they feel the thoroughbred meet works very well; there are some problems with the transition from the thoroughbred meet to the mixed meet regardless of the number of days between the two, and then they move into the harness meet. He noted that on and off track handle increased; and participation and field size increased. On the flip side, the thoroughbreds may feel there were not enough

racers for them; however, there is a caveat which allows for a sixth race if there are a sufficient number of entries.

Mr. Ketterer stated that the change up of the format this year was very revealing and believes there are a number of things to be learned. He felt it would be to PMR&C's benefit to have a discussion with the horsemen and receive the official input from each organization, but it is ultimately PMR&C's decision as to the number of race days and distribution of purse money requested in the application. He reiterated his earlier statement that the horsemen themselves are dubious they can reach an agreement as to purse distribution.

Mr. Ketterer stated that one of the reasons he asked about long term plans was that the application refers to capital improvements and a master development plan, all being subject to financing. He noted that a turf track has been discussed since 1997, but now there is a substantial amount of discussion in the industry about artificial surfaces and the safety they bring to the horses as well as the rider. Mr. Ketterer pointed out that the California Racing Commission has mandated artificial surfaces for all tracks. He stated that he did not feel the Commission wanted to mandate the use of artificial surfaces, but feels it is something that PMR&C should be investigating and taking any necessary steps in order to procure financing. Mr. Ketterer stated that the Commission would not want to hear that PMR&C could not proceed in this area for three to five years if it is a safety issue for the horses and riders because they are unable to secure the necessary financing.

Mr. Ketterer wondered if the purse situation could be resolved by the November meeting; noting that the Commission would like to review them at the November meeting. Additionally, PMR&C would be able to share the input received from the three horse breeds concerning the race dates. Mr. Ketterer also requested that PMR&C be prepared to present information concerning their near and long-term plans for parking and other matters.

Commissioner Bair, noting that he has been on the Commission for three years, concurred with Mr. Ketterer's statement that the Commission needs more than just a year-to-year plan, and indicated that this time of year always seems to be a sticking point with regard to racing. He requested a three to five year strategy, with funding in place so that each side has some type of blueprint to work from that would allow everyone to move forward. Commissioner Bair stated that he feels the current process is beginning to foster ill will on both sides.

Mr. Palmer agreed that a three to five year plan does need to be in place. He indicated that he had talked with each of the horse organizations individually, and concurred that there is a difference of opinion between leadership and membership, but most collectively agree that they would prefer a three to five year plan as well, which would allow the breeders to have an idea of where the track is going. Mr. Palmer indicated that everyone is optimistic this can be achieved.

Commissioner Bair expressed the opinion that if the Commission accepts short-term plans financed this year that they should mandate a three to five year plan be submitted with the 2008 license renewal.

Mr. Ketterer indicated that another source of irritation to the Commission is reading that PMR&C has given \$27-28 million to Polk County on a yearly basis, and then reading that numerous items in the Master Development Plan are contingent or subject to financing. There have been two separate instances in The Des Moines Register recently indicating that businesses or proposed businesses in the Des Moines metropolitan area have been granted low or no interest loans by Polk County utilizing funds from PMR&C. Mr. Ketterer questioned why PMR&C is unable to secure Polk County's cooperation in receiving the necessary financing as opposed to Polk County granting those funds to other businesses.

Mr. Palmer advised that PMR&C is working on several different financing scenarios. He indicated that if PMR&C is going to continue to grow, financing is a necessity which is unavailable to them under the current scenario. Up to this point financing has been short term, and the projects started/completed right away. Mr. Palmer stated that PMR&C has the business, will and determination to be more and more successful each year. He noted that PMR&C has to answer to the County, the horsemen, unions, etc.

Hearing no further comments, Chair Cutler requested a motion. Commissioner Urban moved to defer PMR&C's racetrack license renewal application and granting of race dates, and the racetrack enclosure gambling license until the November meeting and receipt of purse information. Commissioner Seyfer seconded the motion, which carried unanimously. (See Order No. 06-110)

Chair Cutler moved to the additional contracts submitted by PMR&C. Mr. Palmer submitted the following contracts for Commission approval:

- AC Coin & Slot Service – Renewal Lease for Slot Machines
- Aristocrat Technologies, Inc. – Purchase of 12 Slot Machines & Accessories
- Bally Gaming, Inc. – Purchase of 21 Slot Machines
- Farner Bocken Company – Candy, Food Tobacco & Other Supplies
- IGT – Lease of 9 Slot Machines
- IGT – Renewal Lease of 6 Slot Machines
- Iowa Harness Horsemen's Association – Standard bred Agreement for the 2006 Racing Season
- On Media – Advertising Expense
- WMS Gaming, Inc. – Renewal Lease of 2 Slot Machines

Hearing no comments or questions concerning the contracts, Chair Cutler requested a motion. Commissioner Bair moved to approve the contracts as submitted by PMR&C. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 06-111)

Chair Cutler moved to the hearings before the Commission and called on Jeremy Strickland. Mr. Strickland is appealing the Decision of the Administrative Law Judge (ALJ) rendered in August, which upheld the Commission's decision to revoke his gaming license. Mr. Strickland noted that he did not have all of his supporting documentation at the time of the hearing, and felt some mistakes had been made by the Isle of Capri Bettendorf (IOCB) and IRGC.

Mr. Strickland stated that another reason for the review is that he had previously sought help on his own for the problem that was presented. He recently submitted a letter from his counselor setting forth how long he had been under his care. This treatment was previous to May 26th when his license was suspended and then revoked. Mr. Strickland stated that the information provided by IOCB on August 1st that lead to his termination was not complete and forthcoming. He feels the ALJ's Decision was incorrect and should be overturned.

Chair Cutler called on Brian Meyer, Assistant Attorney General, serving in the capacity as prosecuting attorney. Mr. Meyer indicated this is a straight-forward case. During the Administrative Hearing, facts were presented that Mr. Strickland had tested positive; and when confronted about the positive test, admitted to smoking marijuana and having a substance abuse problem. Mr. Meyer stated that he did not think Mr. Strickland would contest the facts that he tested positive and has a substance abuse problem. He further stated that Mr. Strickland's contention that he was entitled to a second test is negated, even if there were mistakes, by the fact that he admitted to smoking marijuana and having a substance abuse problem. Mr. Meyer stated that the Commission could have revoked Mr. Strickland's license under both Iowa Administrative Rules 491-4.4 and 491-6.5(1)i which states that a license shall be denied if the applicant has a current addiction to alcohol or a controlled substance or has a mental illness without sufficient evidence of rehabilitation. Mr. Meyer asked the Commission to uphold the ALJ's Decision.

Mr. Ketterer advised that the Commission simply reviews the ALJ's Decision in these matters to determine if an error was made. He indicated they would be able to conduct their deliberations in Executive Session prior to making that decision if they so choose. Chair Cutler indicated she felt the matter should be continued to the end of the meeting, allowing the Commission to go into Executive Session, and called for a motion to that effect. Commissioner Bair moved to defer a decision on this matter until the end of the meeting. Commissioner Seyfer seconded the motion, which carried unanimously. (See Order No. 06-112)

Chair Cutler moved to the hearing involving Diamond Jo Worth (DJW) for a violation of Iowa Code Section 99F.9(5) (Wagering – age restriction). Mr. Ketterer advised that the Commission staff had reached a Stipulated Agreement with DJW concerning this matter. Mr. Ketterer stated that the situation occurred on July 4 when a minor female and her mother entered the turnstile unnoticed by a security officer and entered the gaming floor unchallenged. After approximately an hour in the casino and having played various slot machines, the minor female left the floor and returned, again walking past a security

officer at another entrance without being challenged, and again gambled at various slot machines. She once again left the casino, returned again at another entrance and security officer without being challenged and left again 15 minutes later. When she attempted to re-enter, she was denied entrance. She returned to her car, and then entered the casino a fourth time without being challenged. The security officer who did deny her entrance saw her on the floor and called the matter to the attention of another security officer. At that time, in the presence of the Division of Criminal Investigation (DCI), the minor female was asked to come to the security offices for questioning. At this time, it was learned she was 15 years old. Commission staff took the position that the age of the minor, the length of time she was on the floor (4.5 hours) and the fact that she was allowed to enter the gaming floor unchallenged on four occasions requires a penalty beyond what is set forth in the guidelines. Commission staff set a penalty of \$25,000, to which the DJW has agreed. Mr. Ketterer recommended approval of the Stipulated Agreement. He noted that Mr. Aviles wished to address the Commission concerning this matter.

Mr. Aviles stated that the facility takes full responsibility and that the facts as stated by Mr. Ketterer were accurate and to the point. He stated that the newness of the facility played some part in the incident. He indicated that some of the issues have been corrected through additional training, doubling up on entrance security officers, and steps are being taken to change some of the entrances that are very susceptible to being breeched. He stated that DJW hopes this situation is not repeated in the future.

Mr. Ketterer stated that he did not wish to single out DJW or WRE as they are new facilities, but pointed out that when an entity accepts a license, they accept the responsibility of upholding the requirements of the Iowa Code and Administrative Rules. Mr. Ketterer stated this particular situation **can not** happen at Iowa's casinos, noting the reaction of the citizens of Iowa to the touch play machines, which they deemed to be no different than the machines offered by the licensed facilities. He pointed out that the reaction was not to the games, but to their placement, access, and the lack of restrictions. Mr. Ketterer stated the facilities **must** do a better job in this respect.

Hearing no further comments or questions, Chair Cutler called for a motion. Commissioner Seyfer moved to approve the Stipulated Agreement as submitted between IRGC and DJW. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 06-113)

Chair Cutler moved to the hearing for WRE for a violation of Iowa Code Section 99F and Administrative Rules 491-11.2(2)b and 491-11.2(2)c. Mr. Ketterer advised that staff had also reached a Stipulated Agreement with WRE. This matter involves a couple, Mr. and Mrs. Ricky Estlund, who entered the facility on the afternoon of July 14th and over a five hour period, Ms. Estlund consumed numerous beers and was cited by a dealer, and a security officer at a later time, for removing her cards from the table on a three-card poker game. The security officer noted slurred language and asked her to step away from the poker table and advised her that she was being cut off from consuming additional

alcoholic beverages. Following conversations between Mr. Estlund and various supervisors, including the casino manager at WRE, Ms. Estlund was summoned from her hotel room at which time the casino manager apologized and comped Mr. & Mrs. Estlund for food and beverage in the Irish Pub on the second floor of the facility. The casino manager also advised Ms. Estlund that she could not consume additional alcoholic beverages until 9:00 PM, but could re-enter the casino. Mr. & Mrs. Estlund returned to the casino, and played Blackjack. Ms. Estlund was observed drinking from her husband's alcoholic beverage (comped by the facility). The DCI asked both individuals to submit to a breathalyzer test. Mr. Estlund tested at .099 and Mrs. Estlund tested at .259. IRGC's Administrative Rules require that an individual not be allowed to participate in gambling while intoxicated. Mr. Ketterer stated that the parties had agreed to an administrative penalty of \$10,000, and recommended approval of the Stipulated Agreement as submitted. He noted that Mr. Timmons, the current general manager, would like to address the Commission; and advised that he was not the general manager at the time of this incident.

Mr. Timmons stated that WRE accepts responsibility and agrees to the facts as set forth by Mr. Ketterer. He noted that most, if not all, of the individuals involved in the incident are no longer employed by WRE. Mr. Timmons stated that since his arrival at the property, WRE has been working very hard to change some of the internal procedures. He noted that it is difficult to administrate some of these issues, but accepted that it is part of their license and will continue to work to prevent future incidents of this nature.

Hearing no further comments or questions, Chair Cutler requested a motion. Commissioner Bair moved to approve the Stipulated Agreement between IRGC and WRE. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 06-114)

As there was no Administrative Business or Public Comment, Chair Cutler called for a motion to go into Executive Session. Commissioner Bair moved to go into Executive Session pursuant to Iowa Code Section 21.5(1)f to deliberate the decision to be rendered in a contested case conducted according to the provisions of Iowa Code Section 17A. Commissioner Urban seconded the motion, which carried unanimously on a roll call vote. (See Order No. 06-115)

Upon returning to open session, Chair Cutler called for a motion concerning the Jeremy Strickland Appeal of the ALJ's Decision. Commissioner Seyfer moved to uphold the ALJ's Decision. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 06-116)

As there was no further business to come before the Commission, Chair Cutler called for a motion to adjourn. Commissioner Urban so moved. Commissioner Seyfer seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK